

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

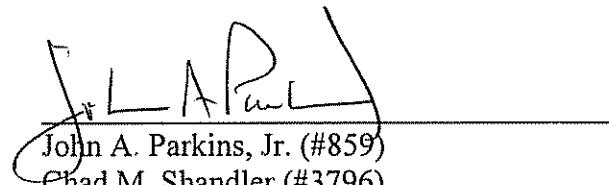
ESTATE OF HARRY SMITH, III, HARRY)
SMITH, JR., AND ROSLYN WOODARD)
SMITH,)
Plaintiffs,)
v.) Case No. 04-1254-GMS
WILMINGTON POLICE DEPARTMENT,)
MICHAEL SZCZERBA, and ONE OR)
MORE JOHN DOES,)
Defendants.)

DEFENDANTS' MOTION FOR PARTIAL DISMISSAL

Defendants move to dismiss the following claims asserted in the Amended Complaint:

1. The plaintiff estates' claims based upon the Fourteenth Amendment.
2. The individual plaintiffs' claim based upon the Fourth Amendment.
3. The individual plaintiffs' claim based upon the Fourteenth Amendment.

The reasons supporting this motion are set forth in the letter memorandum filed herewith.



John A. Parkins, Jr. (#859)
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OF COUNSEL:

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Attorneys for Defendant Wilmington Police
Department

Dated: September 29, 2005

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DISTRICT OF DELAWARE**

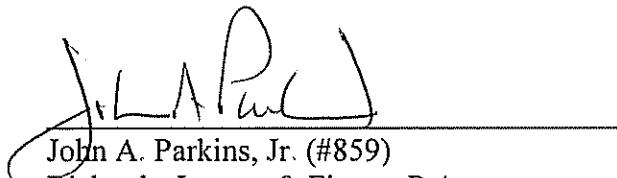
CERTIFICATE OF SERVICE

I hereby certify that on September 29, 2005, I electronically filed the foregoing document with the Clerk of Court using CM/ECF which will send notification of such filing(s) and Hand Delivered to the following:

Kester I.H. Crosse, Esquire
Williams & Crosse
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Wilmington, DE 19801

I hereby certify that on September 29, 2005, I have sent by U.S. Regular Mail, the foregoing document to the following non-registered participants:

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